

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
CAMDEN VICINAGE

JAMES LESTER ROUDABUSH, Jr.,	:	
	:	CIV. ACTION NO. 17-6759(RMB)
Plaintiff	:	
	:	
v.	:	
	:	OPINION
	:	
CHARLES E. SAMUELS, Jr.,	:	
<i>et al.</i> ,	:	
	:	
Defendants	:	

BUMB, U.S. District Judge

This matter comes before the Court upon Plaintiff's motion to dismiss this action. (Mot. to Dismiss, ECF No. 18.) For the reasons discussed below, the Court will grant Plaintiff's motion to dismiss.

I. BACKGROUND

Plaintiff, a prisoner presently confined at FCI Edgefield in Edgefield, South Carolina, initially filed this civil rights complaint in the U.S. District Court, District of Columbia on August 21, 2015. (Compl., ECF No. 1.) The District Court for the District of Columbia ordered the case transferred to the District of New Jersey, where the alleged constitutional violations

occurred and all but one of the defendants resided. (Transfer Order, ECF No. 3.)

Plaintiff appealed the transfer order. (Notice of Appeal, ECF No. 4.) The United States Court of Appeals for the D.C. Circuit construed the appeal as a petition for writ of mandamus. (Order of USCA, ECF No. 6.) On September 1, 2017, the D.C. Circuit Court dismissed the petition for writ of mandamus for failure to prosecute. (Order of USCA, ECF No. 11.) The case was transferred to this Court on September 5, 2017. (Certified Copy of Transfer Order, ECF No. 12.) The case was administratively terminated when Plaintiff failed to file a properly completed application to proceed *in forma pauperis* ("IFP") under 28 U.S.C. § 1915(a) or in the alternative pay the \$400.00 filing fee. (Order, ECF No. 17.) Rather than submitting an IFP application or paying the filing fee, Plaintiff filed the instant motion to dismiss. The Complaint was not served on the defendants.

II. VOLUNTARY DISMISSAL

Federal Rule of Civil Procedure 41, Dismissal of Actions, provides in relevant part:

(a) Voluntary Dismissal.

(1) By the Plaintiff.

(A) Without a Court Order. Subject to Rules 23(e), 23.1(c), 23.2, and

66 and any applicable federal statute, the plaintiff may dismiss an action without a court order by filing:

(i) a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment.

Unless the notice of dismissal states otherwise, dismissal under Rule 41(a)(1) is without prejudice. The Court will grant Plaintiff's motion to dismiss this action.

III. CONCLUSION

For the reasons discussed above, the Court will grant Plaintiff's motion to dismiss this action.

An appropriate Order follows.

Date: January 4, 2019

s/Renée Marie Bumb
RENÉE MARIE BUMB
United States District Judge